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## THE CONCEPT OF LEGAL PERSONALITY: ITS EVOLUTION AND APPLICATION IN INDIAN JURISPRUDENCE

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### ABSTRACT

*To be a legal person is to be the subject of rights and duties.  
To confer legal rights or to impose legal duties, therefore, is to  
confer legal personality.<sup>557</sup>*

*The concept of legal personality is a foundational principle in jurisprudence, determining who or what can possess rights and duties under the law. This paper examines the evolution of legal personality, its theoretical underpinnings, and its application in Indian jurisprudence. It explores how Indian law recognizes legal personality, including its extension to non-human entities such as idols, corporations, and rivers. Through an analysis of case laws, the paper critically evaluates the adequacy of existing legal frameworks in addressing contemporary challenges. The study concludes with recommendations for legal reforms to better accommodate emerging issues, such as the recognition of artificial intelligence and environmental entities as legal persons.*

**Keywords:** Legal Personality, Indian Jurisprudence, Idols, Corporations, Rivers, Artificial Intelligence.



GRASP - EDUCATE - EVOLVE

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<sup>557</sup>Gray, *The Nature and Sources of The Law* (2d Ed. 1921) 27; Salmond, *Jurisprudence* (5th Ed. 1916) 272; Holland, *Jurisprudence* (9th Ed. 1900) 88; Pollock, *A First Book of Jurisprudence* (1923) 114.

## 1. INTRODUCTION

Legal personality refers to the capacity of an entity to be recognized as a person in the eyes of the law, enabling it to hold rights, duties, and liabilities. This concept is central to jurisprudence, as it determines who or what can participate in legal relationships. Legal personality is not limited to natural persons (humans) but extends to artificial persons, such as corporations, idols, and even natural entities like rivers. The concept has evolved significantly over time, reflecting changes in societal values and legal systems. This concept of Jurisprudence has been interpreted through different judicial pronouncements and by different scholars in order to understand it in a better manner. Many theories have also been propounded for the concept in order to widen its scope under the umbrella of jurisprudence.

**1.1 Objective of the study:** The main objective of this study to understand the scope of Legal personality as a subject of jurisprudence. It also aims to analyze the evolution, application, and relevance of the concept of legal personality in Indian jurisprudence. The main objectives of the paper are underlined below :

- To trace the historical development of legal personality in Indian law.
- To examine its application to non-human entities.
- To evaluate its contemporary relevance and challenges.

**1.2 Research Questions:** The following Research paper will analyse the concept of Legal personality in Jurisprudence and will aim to answer the following questions underlined below:

- How has the concept of legal personality evolved in Indian jurisprudence?
- How does Indian law recognize legal personality for non-human entities?
- What are the contemporary challenges and relevance of legal personality in Indian law?

**1.3 Research Methodology:** The paper, for answering the Research questions formulated

will follow a doctrinal approach which will focus on primary sources such as case laws, statutes, and secondary sources like books and journal articles. It will aim at analysing the research papers and articles written by some eminent scholars in the field of law.

## 2. LITERATURE REVIEW

### 2.1 Introduction to Jurisprudence

The author has relied on many Books, articles and research paper in order to understand the concept of jurisprudence. The author has relied on **Dias, R.W.M. Jurisprudence. 5th ed., Butterworths, 1985.** This book talks about the introduction of Jurisprudence from its history to the application jurisprudence until now.

### 2.2 Legal Personality

The author has relied and delve deep into **Stone, Christopher D. "Should Trees Have Standing? Toward Legal Rights for Natural Objects." Southern California Law Review, vol. 45, 1972, pp. 450–501.** Article gives a comprehensive analysis of Legal personality as a concept under jurisprudence and its relevance in today's context. This article explores the extension of legal personality to non-human entities, such as environmental objects, and its implications for legal systems.

### 2.3 Constitutional Law and Legal Personality

The author in order to understand the scope of Legal personality in context to Indian legal system and its relevance has relied on different case laws and analysing them by relying on **Jain, M.P. Indian Constitutional Law. 7th ed., LexisNexis, 2018.** as well as **Seervai, H.M. Constitutional Law of India. 4th ed., Universal Law Publishing, 2015.**

## 3. THEORETICAL FOUNDATIONS OF LEGAL PERSONALITY

### 3.1 Definition and Importance

Legal personality refers to the recognition by law that an entity can hold rights and duties. It is the legal capacity of an entity to be a subject of law, meaning it can own property, enter into contracts, sue or be sued, and exercise other legal rights. Legal personality is not limited to

natural persons (human beings) but extends to artificial persons, such as corporations, idols, and even natural entities like rivers.<sup>558</sup>

For example, a corporation is not a human being, but it is recognized as a legal person under the law. This allows it to own property, enter into contracts, and be held liable for its actions. Similarly, in Indian law, idols and deities are recognized as juristic persons, enabling them to own property and participate in legal disputes.<sup>559</sup>

**3.2** The concept of legal personality is crucial for the functioning of legal systems. It allows for the creation of rights and obligations for entities that are not human, enabling them to participate in legal relationships. Without legal personality, entities like corporations, religious institutions, and environmental entities would not be able to hold rights or be held accountable for their actions.<sup>560</sup>

For instance, the recognition of corporations as legal persons has been instrumental in the development of modern economies. It allows businesses to operate independently of their shareholders, enter into contracts, and be held liable for their actions. Similarly, the recognition of idols as legal persons in India has enabled religious institutions to own and manage property, ensuring the preservation of cultural and religious heritage.<sup>561</sup>

### 3.3 Theories of Legal Personality

#### Fiction Theory

The Fiction Theory, propounded by scholars like Savigny and Salmond, posits that legal personality is a creation of the law. According to this view, entities like corporations and idols are not real persons but are treated as such by legal fiction.<sup>562</sup>

There are few arguments against this policy which are listed below:

- Legal personality is a fiction created by the law to facilitate legal relationships.

- Only human beings are real persons; all other entities are artificial persons created by law.

- The state has the power to grant or deny legal personality to non-human entities.

For instance, In **Salomon v. A. Salomon & Co. Ltd.**<sup>563</sup>, the House of Lords held that a corporation is a separate legal entity distinct from its shareholders. This case is a classic example of the application of the Fiction Theory.

The theory has been criticized for being too rigid and failing to account for the real existence of groups like corporations. It ignores the social and economic realities that necessitate the recognition of non-human entities as legal persons.<sup>564</sup>

#### Realist Theory

The Realist Theory, advocated by scholars like Otto von Gierke, argues that legal personality is a recognition of real entities, whether human or non-human. According to this view, groups like corporations have a real existence beyond their members, and the law merely recognizes this reality.<sup>565</sup>

There are few arguments against this policy which are listed below:

- Legal personality is not a fiction but a recognition of the real existence of groups and entities.
- Corporations and other groups have a collective identity that is distinct from their individual members.
- The law should reflect the social and economic realities of group existence.

For Example: In **Tata Engineering and Locomotive Co. Ltd. v. State of Bihar**<sup>566</sup>, the Supreme Court affirmed the separate legal personality of corporations, emphasizing their real existence as distinct entities.

The theory has been criticized for being too broad and failing to provide clear criteria for

<sup>558</sup> Dias, R.W.M. Jurisprudence. 5th ed., Butterworths, 1985, p. 123.

<sup>559</sup> Shriomani Gurudwara Prabandhak Committee v. Som Nath Dass, AIR 2000 SC 1421.

<sup>560</sup> Jain, M.P. Indian Constitutional Law. 7th ed., LexisNexis, 2018, p. 456.

<sup>561</sup> Pramatha Nath Mullick v. Pradyumna Kumar Mullick, AIR 1925 PC 139

<sup>562</sup> Salmond, John. Jurisprudence. 12th ed., Sweet & Maxwell, 1966, p. 45.

<sup>563</sup> Salomon v. A. Salomon & Co. Ltd., 1897 AC 22.

<sup>564</sup> Gierke, Otto von. Das deutsche Genossenschaftsrecht. 1868, p. 67.

<sup>565</sup> Kelsen, Hans. General Theory of Law and State. 1945, p. 89.

<sup>566</sup> Tata Engineering and Locomotive Co. Ltd. v. State of Bihar, AIR 1965 SC 40.

determining which entities should be recognized as legal persons.

It may lead to the over-recognition of legal personality, potentially undermining the rights of individuals.<sup>567</sup>

### Concession Theory

The Concession Theory suggests that legal personality is granted by the state, emphasizing state sovereignty. According to this view, entities like corporations derive their legal personality from the state's recognition, and the state has the power to grant or deny such recognition.<sup>568</sup>

There are few arguments against this policy which are listed below:

- Legal personality is a concession granted by the state to facilitate legal relationships.
- The state has the authority to determine which entities can be recognized as legal persons.
- Legal personality is not inherent but is derived from the state's recognition.

For Example: In **State Trading Corporation of India v. Commercial Tax Officer**<sup>569</sup>, the Supreme Court held that the State Trading Corporation, as a statutory body, derived its legal personality from the state.

The theory has been criticized for being too state-centric and failing to account for the social and economic realities that necessitate the recognition of legal personality.

It may lead to arbitrary decisions by the state regarding the recognition of legal persons.<sup>570</sup>

While each theory provides valuable insights into the nature of legal personality, none of them is entirely comprehensive. The Fiction Theory emphasizes the role of law in creating legal personality, the Realist Theory highlights

the social and economic realities of group existence, and the Concession Theory underscores the role of the state in granting legal personality. A synthesis of these theories provides a more nuanced understanding of legal personality, recognizing its legal, social, and political dimensions.

## 4. EVOLUTION OF LEGAL PERSONALITY IN INDIAN JURISPRUDENCE

### 4.1 Ancient and Medieval Periods

In ancient India, the concept of legal personality was rooted in religious and customary laws. Idols and deities were recognized as juristic persons with the capacity to own property and sue. The **Manusmriti** and other ancient texts provided for the recognition of idols as legal entities<sup>571</sup>. For example, in **Pramatha Nath Mullick v. Pradyumna Kumar Mullick**<sup>572</sup>, the Privy Council recognized the legal personality of idols, holding that they could own property and be parties to legal disputes.

### 4.2 Colonial Period

The British introduced the concept of corporate legal personality, recognizing companies as separate legal entities under the Companies Act. The landmark case of **Salomon v. A. Salomon & Co. Ltd.**<sup>573</sup> established the principle of corporate personality, which was later adopted in India. The Indian Companies Act, 1913, and its successors recognized companies as separate legal entities, distinct from their shareholders.<sup>574</sup>

### 4.3 Post-Independence Era

The Indian Constitution recognized the rights of individuals and groups, extending legal personality to various entities, including religious institutions and corporations. The judiciary played a crucial role in interpreting and expanding the concept of legal personality. For example, in **Shriomani Gurudwara Prabandhak Committee v. Som Nath Dass**<sup>575</sup>, the Supreme Court held that a Gurudwara, as a

<sup>567</sup> Seervai, H.M. *Constitutional Law of India*. 4th ed., Universal Law Publishing, 2015, p. 312.

<sup>568</sup> *State Trading Corporation of India v. Commercial Tax Officer*, AIR 1963 SC 1811.

<sup>569</sup> *Ibid.*

<sup>570</sup> Chandrachud, Abhinav. "The Basic Structure Doctrine: A Critical Analysis." *Indian Journal of Constitutional Law*, vol. 5, 2011, pp. 45–60.

<sup>571</sup> *Manusmriti*, Chapter 8, Verse 27.

<sup>572</sup> *Pramatha Nath Mullick v. Pradyumna Kumar Mullick*, AIR 1925 PC 139.

<sup>573</sup> *Id.* at 6

<sup>574</sup> *Companies Act, 2013*, Section 9.

<sup>575</sup> *Shriomani Gurudwara Prabandhak Committee v. Som Nath Dass*, AIR 2000 SC 1421.

religious institution, could be recognized as a legal person.

## 5. APPLICATION OF LEGAL PERSONALITY IN INDIAN LAW

### 5.1 Recognition of Idols and Deities

In Indian law, idols and deities are recognized as **juristic persons**, meaning they can own property, sue, and be sued. This recognition is rooted in ancient Hindu law and has been upheld by Indian courts in numerous cases. In the case of **Pramatha Nath Mullick v. Pradyumna Kumar Mullick**<sup>576</sup>, it involved a dispute over the ownership of property dedicated to an idol. The plaintiffs claimed that the property belonged to the idol, while the defendants argued that it belonged to the family. The Privy Council held that an idol is a **juristic person** capable of owning property. The court emphasized that the property dedicated to the idol is held in trust by the **shebait** (manager) for the benefit of the idol. This case established the principle that idols are legal persons under Indian law, enabling them to own and manage property.

Similarly, the case of **Shriomani Gurudwara Prabandhak Committee v. Som Nath Dass**<sup>577</sup> involved a dispute over the management of a Gurudwara (Sikh temple). The plaintiffs argued that the Gurudwara, as a religious institution, should be recognized as a legal person. The Supreme Court held that a Gurudwara, as a religious institution, could be recognized as a juristic person. The court emphasized that religious institutions play a vital role in society and must be protected under the law.

### 5.2 Corporate Legal Personality

The recognition of corporations as separate legal entities is a cornerstone of modern business law. In India, the Companies Act, 2013, provides for the incorporation of companies as legal persons distinct from their shareholders.

In **Salomon v. A. Salomon & Co. Ltd.**<sup>578</sup>, Aron Salomon incorporated a company and transferred his business to it. When the

company went bankrupt, creditors argued that Salomon should be personally liable for the company's debts. The House of Lords held that the company was a **separate legal entity** distinct from its shareholders. Salomon was not personally liable for the company's debts. This case established the principle of **corporate personality** which has been adopted in Indian law.

Similarly, in **Tata Engineering and Locomotive Co. Ltd. v. State of Bihar**<sup>579</sup>, The case involved a dispute over the taxation of a company. The state argued that the company and its shareholders were the same entity for tax purposes. The Supreme Court held that a company is a **separate legal entity** distinct from its shareholders. The court emphasized that the company's rights and liabilities are separate from those of its shareholders. This case reaffirmed the principle of corporate personality in Indian law, ensuring that companies can operate independently of their shareholders.

### 5.3 Extension to Natural Entities

In recent years, Indian courts have extended the concept of legal personality to natural entities like rivers and ecosystems. This development reflects a growing recognition of the need to protect the environment.

In **Mohd. Salim v. State of Uttarakhand**<sup>580</sup> The case involved the pollution of the Ganga and Yamuna rivers. The petitioners sought legal recognition for the rivers as juristic persons to ensure their protection. The Uttarakhand High Court held that the Ganga and Yamuna rivers are legal persons with the same rights as human beings. The court appointed state officials as the legal guardians of the rivers. This case marked a significant step in environmental jurisprudence, recognizing natural entities as legal persons for the first time in India.

Similarly, in **Lalit Miglani v. State of Uttarakhand**<sup>581</sup> The case involved the protection of glaciers and forests in

<sup>576</sup> *Id.* at 15

<sup>577</sup> *Shriomani Gurudwara Prabandhak Committee v. Som Nath Dass*, AIR 2000 SC 1421.

<sup>578</sup> *Id.* at 6

<sup>579</sup> *Tata Engineering and Locomotive Co. Ltd. v. State of Bihar*, AIR 1965 SC 40.

<sup>580</sup> *Mohd. Salim v. State of Uttarakhand*, 2017 SCC OnLine Utt 367.

<sup>581</sup> *Lalit Miglani v. State of Uttarakhand*, 2017 SCC OnLine Utt 368.

Uttarakhand. The petitioners sought legal recognition for these natural entities as juristic persons. The Uttarakhand High Court held that glaciers, forests, and other natural entities are legal persons with the same rights as human beings. The court emphasized the need to protect these entities for future generations. This case extended the concept of legal personality to a broader range of natural entities, reinforcing the importance of environmental protection.

## 6. CRITICAL ANALYSIS

The concept of legal personality has been a cornerstone of Indian jurisprudence, enabling the recognition of rights and duties for both human and non-human entities. However, in today's rapidly evolving legal and societal context, the existing framework faces significant challenges. This section critically evaluates whether the current circumstances are sufficient, discusses emerging challenges, and suggests possible legal reforms to address these issues.

### 6.1 Whether Existing Circumstances Are Sufficient in Today's Legal Context

#### a) Strengths of the Current Framework

**Recognition of Diverse Entities:** Indian law has progressively recognized a wide range of entities as legal persons, including idols, corporations, and natural entities like rivers. This has enabled the protection of cultural, economic, and environmental interests.

**Judicial Innovation:** Indian courts have demonstrated remarkable flexibility in extending legal personality to non-human entities. For example, the recognition of the Ganga and Yamuna rivers as legal persons in *Mohd. Salim*<sup>582</sup> reflects the judiciary's willingness to adapt to contemporary challenges.

**Balancing Interests:** The concept of legal personality has allowed the law to balance competing interests, such as the rights of individuals and the needs of society. For instance, the recognition of corporations as separate legal entities has facilitated economic

growth while protecting shareholders from personal liability.

#### b) Limitations of the Current Framework

**Ambiguity in Scope:** The lack of clear guidelines on the scope and limits of legal personality creates uncertainty. For example, while idols are recognized as juristic persons, there is no clear framework for resolving disputes involving their property or management.

**Enforceability Issues:** The recognition of natural entities like rivers as legal persons raises practical challenges. Who will represent these entities in legal disputes? How will their rights be enforced? These questions remain unanswered.

#### Inadequate Protection for Emerging Entities:

The current framework does not adequately address the legal personality of emerging entities like artificial intelligence (AI) and autonomous systems. As AI becomes more integrated into society, the lack of a legal framework to regulate its actions and liabilities poses significant risks.

### 6.2 Emerging Challenges in Recognizing the Subject Matter

#### a) Artificial Intelligence and Autonomous Systems

**Liability Issues:** As AI systems become more autonomous, questions arise about their legal liability. Should AI systems be granted legal personality to regulate their actions and liabilities? If so, how will their rights and responsibilities be defined?

**Ethical Concerns:** The recognition of AI as a legal person raises ethical concerns. For example, if an AI system causes harm, who should be held accountable—the developer, the user, or the AI itself?

#### b) Environmental Entities

**Enforcement Challenges:** While the recognition of rivers and ecosystems as legal persons is a significant step, it raises practical challenges. How will the rights of these entities be enforced? Who will represent them in legal disputes?

#### Balancing Development and Conservation:

The recognition of natural entities as legal persons must be balanced against the needs of development. For example, how can the rights

<sup>582</sup> *Id.* at 23

of rivers be protected while ensuring that local communities have access to water for agriculture and other purposes?

### c) Corporate Accountability

**Corporate Social Responsibility:** While corporations are recognized as separate legal entities, there is growing concern about their social and environmental responsibilities. How can the law ensure that corporations are held accountable for their actions, particularly in cases of environmental damage or human rights violations?

**Piercing the Corporate Veil:** In cases of fraud or misuse of corporate personality, courts may "pierce the corporate veil" to hold shareholders personally liable. However, this doctrine is applied inconsistently, creating uncertainty in corporate law.

## 6.3 Possible Legal Reforms in Indian Jurisprudence

### a) Legislative Clarity

**Define Scope and Limits:** Enact laws to define the scope and limits of legal personality for non-human entities. For example, a comprehensive framework for the recognition of idols, corporations, and natural entities would provide clarity and consistency in judicial decisions.

**Codify Emerging Entities:** Develop a legal framework for emerging entities like AI and autonomous systems. This framework should define their rights, responsibilities, and liabilities, ensuring that they are regulated effectively.

### b) Institutional Mechanisms

**Establish Guardianship Bodies:** Create bodies to represent and enforce the rights of natural entities like rivers and ecosystems. For example, the Uttarakhand High Court appointed state officials as the legal guardians of the Ganga and Yamuna rivers in *Mohd. Salim*. Similar bodies could be established at the national level to ensure the protection of natural entities.

**Corporate Oversight:** Strengthen mechanisms for corporate oversight and accountability. For example, mandatory corporate social responsibility (CSR) reporting and independent

audits could ensure that corporations are held accountable for their actions.

### c) Balancing Interests

**Develop Inclusive Frameworks:** Create legal frameworks that balance the rights of individuals and the needs of society. For example, the recognition of natural entities as legal persons should be accompanied by provisions to protect the rights of local communities who depend on these resources for their livelihoods.

**Promote Public Awareness:** Educate the public about the concept of legal personality and its implications. This would foster a culture of accountability and ensure that the rights of all entities, whether human or non-human, are respected.

## 7. CONCLUSION

The concept of legal personality has been a cornerstone of Indian jurisprudence, enabling the recognition of rights and duties for both human and non-human entities. From idols and corporations to rivers and ecosystems, Indian law has progressively extended legal personality to protect cultural, economic, and environmental interests. However, the existing framework faces significant challenges, including ambiguity in scope, enforceability issues, and inadequate protection for emerging entities like artificial intelligence.

Emerging challenges, such as the recognition of **AI, environmental entities**, and the need for greater **corporate accountability**, highlight the need for reform. To address these issues, legislative clarity, institutional mechanisms, and inclusive frameworks are essential. Enacting laws to define the scope of legal personality, establishing bodies to enforce the rights of non-human entities, and balancing competing interests will ensure a more just and equitable legal system. In conclusion, while the concept of legal personality has played a vital role in shaping Indian jurisprudence, its application must evolve to address contemporary challenges. By adopting a comprehensive and inclusive approach, Indian law can continue to protect the rights of diverse entities, promote



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justice, and uphold the principles of democracy and rule of law. The journey towards a more equitable legal system is ongoing, and legal personality will remain central to this endeavour.

